



made. United States v. Raddatz, 447 U.S. 667, 673-75 (1980). The court need not address any nonspecific, frivolous, or conclusory objections. Battle v. United States Parole Comm'n, 834 F.2d 419, 421 (5th Cir. 1987).

In his application, Alex objects to the magistrate judge's findings and conclusions that (1) the prosecutor's charge for the jury to enforce the law was proper, (2) the prosecutor was merely paraphrasing the jury charge, and (3) Alex's voluntary plea waived his objections regarding venue. The court addresses each objection below.

First, Alex objects to the magistrate judge's finding that the prosecutor's charge for the jury to enforce the law was permissible because, according to Alex, it is not the jury's job to enforce the law and making such statements encourages juries to engage in behavior that violates the separation of powers doctrine. This objection is without merit. See Parks v. State, 400 S.W.2d 769, 772 (Tex. Crim. App. 1966).

Second, Alex objects to the magistrate judge's finding that the prosecutor's statements regarding good conduct time were more or less paraphrases of the court's jury charge. Alex seemingly has a problem with the following statement:

The -- the good conduct time -- and they really shouldn't call it time because it's not time, it's -- it's an award, it's a carrot on a stick, depending on how you look at it, that the prison authorities give or take away to get people to do what they want them to do.

Reporter's R., vol. 4, at 99-100. Alex argues that this type of statement "will cause a jury to impose a lengthy sentence to off

set the award of good time and supposed early release . . . ."

Objections at 2. Alex's counsel did object when the prosecutor began to discuss good conduct time. Reporter's R. at 99. The above-quoted statement was not an impermissible application of how parole law would apply to Alex's specific case; rather, it was a general, non-specific comment about good conduct time. See Taylor v. State, 911 S.W.2d 906, 912 (Tex. App.--Fort Worth 1995, pet. ref'd) (comparing permissible, generic statements with impermissible statements specifically referring to a defendant). Further, the prosecutor discouraged the jury from attempting to apply parole law to Alex's case when deciding his sentence, and the jury charge read:

You may consider the existence of the parole law and good conduct time. However, you are not to consider the extent to which good conduct time may be awarded to or forfeited by this particular defendant. You are not to consider the manner in which the parole law may be applied to this particular defendant.

Clerk's R. at 73. Alex has failed to show that his counsel's performance was deficient, nor has he shown that he was prejudiced by any of his counsel's actions.

Finally, Alex's third and fourth objections both relate to the magistrate judge's conclusion that, because Alex pleaded guilty he has waived any argument regarding venue. The court finds that these objections are without merit. See Garner v. Scott, 59 F.3d 1242 (5th Cir. 1994) (per curiam).

Therefore,

The court accepts the findings, conclusions, and recommendation of the magistrate judge and ORDERS that the

application of Roy Lee Alex for writ of habeas corpus pursuant to  
28 U.S.C. § 2254 be, and is hereby, denied.

SIGNED June 24, 2009.



JOHN MCBRYDE  
United States District Judge